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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,537	06/23/2003	Anne M. Lawson	29953-184846	5772

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EXAMINER

MCDOWELL, SUZANNE E

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,537

Applicant(s)

LAWSON ET AL.

Examiner

Suzanne E. McDowell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) 21-25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Claim Objections

1. Claim 3 is objected to because of the following informalities: in line 1, "f" should be "of".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 10, 12-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Oda et al. (US Patent 5,788,926). Oda et al. discloses a method of making a plastic bottle from olefin-based resins by coextruding several layers to form a parison or preform, including such layers as an oxygen barrier resin intermediate layer (column 5, lines 20-38) or oxygen absorbing resin intermediate layer (column 5, lines 39-44); and blow molding the extruded parison with an inert gas such as nitrogen (column 6, lines 43-47). Regarding claim 12, it is inherent that blowing the parison with inert gas will saturate the walls of the parison with such gas.

4. Claims 1, 5-13, and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Ruppman, Sr. et al. (US PG Pub 2004/0091649). Ruppman, Sr. et al. discloses a method of extrusion blow molding parison by using inert gas, such as nitrogen, as blow air (page 1, paragraphs 4-5), wherein the resin used may be PETG, polyethylene, polypropylene, etc (page 1, paragraph 6), and the finished container is inherently sterilized and resistant to microbial attack, i.e., has a longer shelf-life (page 1, paragraph 7).

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruppman, Sr. et al. (US PG Pub 2004/0091649). Ruppman, Sr. et al. teaches a method of extrusion blow molding parison by using inert gas, such as nitrogen, as blow air (page 1, paragraphs 4-5), wherein the resin used may be PETG, polyethylene, polypropylene, etc (page 1, paragraph 6), and the finished container is inherently sterilized and resistant to microbial attack, i.e., has a longer shelf-life (page 1, paragraph 7). Regarding claim 19, Ruppman, Sr. et al. does not teach that the preform was injection molded. Extrusion blow molding and injection blow molding are well-known equivalents. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the method taught by Ruppman, Sr. et al. and use injection blow molding, depending upon the characteristics of the resin chosen, process temperatures, etc.

Allowable Subject Matter

7. Claims 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Slat et al. (US Patent 5,676,267) and Shibuta et al. (JP 57-185119).


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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on M, W, Th 6:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEM
June 27, 2004


SUZANNE E. MCDOWELL
PRIMARY EXAMINER